

REMARKS

Claims 1-24 are currently pending. Claims 1 is independent. Claims 1, 6, 10-16, 19, and 23-24 are amended for clarity. No new matter is added. Support for the amendments can be found at least at page 4, line 8 to page 5, line 30 of the specification and FIG. 2. Reconsideration of the action mailed October 31, 2007, is respectfully requested in light of the foregoing amendments and the following remarks.

The Examiner rejected claims 1-13, 17, and 23-24 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. The Examiner rejected claims 1-24 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Examiner rejected claims 1-2, 8-19, 21, and 23-34 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Application Publication No. 2002/0118954 ("Barton"). The Examiner rejected claims 3-7 and 20 under 35 U.S.C. § 103(a) as allegedly unpatentable over Barton in view of U.S. Patent Application Publication No. 2003/000952 ("Nourbakhsh"). The Examiner rejected claim 22 under 35 U.S.C. § 103(a) as allegedly unpatentable over Barton. Applicant respectfully traverses the rejections.

Section 101 Rejections

The Examiner rejected claims 1-13, 17, and 23-24 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. In particular, the Examiner states that the claims are non-statutory for failing to recite a practical application provided by a physical transformation or a useful, concrete and tangible result. Applicant respectfully disagrees.

The tangible result requirement of MPEP 2106 IV(C)(2)(b) is only considered when determining whether the claim recites a practical application of an abstract idea, law of nature, or natural phenomenon, which are judicial exceptions to section 101. *See* MPEP 2106 IV(C)(2). Therefore, it is first necessary that the claim, as a whole, falls within these judicial exceptions to statutory subject matter under section 101. *See* MPEP 2106 IV (C).

The claims do not fall within the judicial exceptions to section 101. The claims do not recite an abstract idea, law of nature, or natural phenomenon. For example, MPEP 2106 IV(C) cites mathematical algorithms as abstract ideas. The section further goes on to describe

principles (*e.g.*, justice) and motives (*e.g.*, greed) as similarly unpatentable. These are abstract concepts that an individual cannot claim exclusive right to. By contrast, claim 1, recites a method that includes using a specified plan of the one or more plans to determine a recording schedule for a personal video recorder system. This not an abstract idea as defined by section 101.

Furthermore, the claims, as amended, do recite a useful, tangible, and concrete result. In particular, independent claim 1 recites using a specified plan of the one or more plans to determine a recording schedule for a personal video recorder system. Applicant respectfully submits that determining a recording schedule-provides a useful, tangible and concrete result.

Section 112 Rejections

The Examiner rejected claims 1-24 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

With respect to claim 1, the Examiner expresses confusion over the meaning of a number of terms in the claim and their relationship to each other. For example, the Examiner states that the difference between “a schedule” and “a recording schedule” in claim 1 is unclear. Applicant respectfully submits that the meaning of each term is clearly in light of the specification and need not be defined in the claim. However, in order to expedite prosecution Applicant has amended claim 1 for clarity. Applicant respectfully submits that claim 1, as amended, satisfies the requirements of § 112, second paragraph.

With respect to claims 5-7, the Examiner states that the purpose of “assigning scores” is unclear. Applicant respectfully disagrees. Claim 3 is directed to assigning scores to the one or more plans. Claim 4, which depends from claim 3, is directed to determining a preferred plan based on the assigned scores. Thus, the assigned scores are used to determine a preferred plan. Claims 5-6 depend from claim 4 and are directed to how the scores are assigned. Finally, claim 7 depends from claim 3 and is directed to ranking plans based on the assigned scores. Thus, both claims 4 and 7 are directed to how the assigned scores are used. Furthermore, claims 5-6 are directed to how the scores are assigned. Thus, the purpose of assigning scores is clear on the

face of the claims. Applicant respectfully submits that claims 5-7 satisfy the requirements of § 112, second paragraph.

With respect to claim 9, the Examiner states that it is unclear “how a preferred plan based on scores is determined” (Office Action page 4). However, Applicant respectfully submits that this does not make the claim indefinite. Claim 9 includes “determining a preferred plan based on scores” which is sufficiently definite. The scores are used to determine a preferred plan. How the scores are used to determine the preferred plan is not required to make the claim definite under section 112. Moreover, the specification discloses at least one way to use the scores to determine a preferred plan (e.g., according to a highest score). *See e.g.*, specification page 9, line 27.

The Examiner further states that claim 9 is unclear with respect to “how scores may be based on components of each job” (Office Action page 4). Claim 9 includes scores based on component of each of the jobs where the components include “at least one element selected from the group including a recording time, a recording quality, a type of program, a relative position in an order a job of the two or more jobs was input, an inclusion of bonus time and a keyword.” Thus, the claim identifies different components of jobs used for scoring. Section 112 does not require that the claim identify what score is given to each component or possible combination of components in order to be definite. Moreover, the claim should be read in light of the specification, which clearly discloses scoring based on components of jobs, for example, at page 8, lines 1-7 of the specification. Applicant respectfully submits that claim 9 satisfies the requirements of § 112, second paragraph.

With respect to claim 11, the Examiner states that the relationship between an updated schedule and a recording schedule is unclear. Applicant respectfully disagrees. However, Applicant has amended claim 11 to recite “an updated transmission schedule,” similar to the use of “transmission schedule” in amended claim 1. Applicant respectfully submits that the difference between an updated transmission schedule and a recording schedule are clear and satisfy the requirements of section 112, second paragraph.

With respect to claims 13-14, the Examiner states that the relationship between “a second user input” of claim 13 and “an input” of claim 12 is unclear. Furthermore, the Examiner stated confusion as to “where is the first user input? Does the input from claim 12 considered the first user input?” Applicant respectfully submits that the various inputs were clear on the face of the claims. The first user input was found in claim 1, thus each distinct input was clearly identified and included proper antecedent basis. However, for clarity and to expedite prosecution, Applicant has amended the claims. Claim 1 recites one or more inputs, claim 12 recites an input source, and claim 13 recites a user input. Applicant respectfully submits that claims 12-14, as amended, satisfy the requirements of section 112, second paragraph.

Section 102 Rejections

Claim 1 was rejected over Barton. Claim 1, as amended, is directed to a method that includes resolving the scheduling conflict including automatically determining one or more plans for performing jobs, each plan having a combination of solutions including a particular solution for each of the plurality of jobs.

The Examiner states that Barton discloses the feature of claim 1. Applicant respectfully disagrees. Barton discloses a system for scheduling, recording, storing, and deleting content. *See* Abstract. FIG. 7 shows a process for scheduling a recording. In particular, for a program that is identified for recording (e.g., a job), the system identifies whether there are storage or input conflicts. *See* paragraph 158, FIG. 7. A storage conflict means that there is not enough space available to perform the desired recording. *See* paragraphs 155-156. An input conflict means that there is a conflicting program already scheduled for recording. *See* paragraph 154. The system identifies conflicts by consulting an input schedule and a space schedule. *See* paragraph 156.

If there are no conflicts, the program is scheduled for recording. *See* paragraph 158; FIG. 7. If there is a space conflict, the user is prompted to remove one or more previously recorded programs to provide the necessary space to record the program. *See* paragraph 159-160; FIG. 7. If there is an input conflict, the user is prompted to cancel one or more previously recorded programs in order to allow the current program to be recorded. *See* paragraph 161; FIG. 7.

Alternatively, the user can cancel scheduling the current program to be recorded. *See* paragraph 161.

Thus, the system of Barton identifies conflicts, but relies on the user to determine how to resolve the conflict (i.e., by either deleting previously recorded or scheduled programs or by not scheduling the recording). In contrast, claim 1 requires automatically determining one or more plans, each plan having a combination of solutions including a particular solution for each of the plurality of jobs. Barton does not disclose or suggest determining a plan having a combination of solutions including a particular solution for each job. Instead, Barton presents the conflict to the user so that the user can determine their own plan for performing jobs. Therefore, the system of Barton does not use the possible combinations of solutions to determine plans for performing jobs when a conflict occurs. Consequently, Barton does not disclose or suggest the determining plans, as required by claim 1.

Applicant respectfully submits that claim 1, as well as claims 2-24, which depend from claim 1, are in condition for allowance.

Conclusion

Applicant requests that all pending claims be allowed.

By responding in the forgoing remarks only to particular positions taken by the Examiner, Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicants' arguments for patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, Applicant's decision to amend or cancel any claim should not be understood as implying that the applicant agrees with any positions taken by the Examiner with respect to that claim or other claims.

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Respectfully submitted,

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